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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 SIERRA PACIFIC POWER COMPANY, a)
10 Nevada Corporation,) 03:04-CV-0034-LRH (RAM)
11 Plaintiff,)
12 vs.) ORDER
13 THE HARTFORD STEAM BOILER)
14 INSPECTION AND INSURANCE)
15 COMPANY, and ZURICH AMERICAN)
16 INSURANCE COMPANY, a New York)
17 Corporation, as successor in interest to)
18 ZURICH INSURANCE COMPANY, US)
19 BRANCH,)
20 Defendants.)
21 _____)
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24 _____)
25 _____)

26 Presently before this court is Plaintiff Sierra Pacific Power Company's ("SPPC") motion
27 in opposition to the filing of Defendants', Hartford Steam Boiler Inspection Company and Zurich
28 American Insurance Company, Renewed Motion for Summary Judgment (#79¹). In its motion
SPPC opposes granting Defendants leave to file a partial motion for summary judgment, moves
to strike Defendants' renewed motion for summary judgment, responds to portions of
Defendants' motion for summary judgment, and requests additional time to file a proper
opposition to the summary judgment motion if it is allowed to proceed. Defendants have replied
to SPPC's motion (#82) and SPPC has filed a reply (#84).

26 SPPC raises four grounds upon which it contends the court should preclude Defendants
27 from proceeding with their renewed motion for summary judgment: (1) the motion is untimely;
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¹ References to (# XX) refer to the court's docket.

1 (2) the motion is brought in violation of the scheduling order; (3) the motion is outside the Rules
2 of Procedure; and (4) the motion is redundant, as the issues raised were previously dealt with by
3 the court.

4 The court has reviewed SPPC's objections to Defendants' motion and, although finding
5 most valid, concludes that they are outweighed by the court's need to resolve the issues raised in
6 Defendants' motion prior to trial. Defendants' raise in their motion an issue of pure law
7 regarding the interpretation of the contract entered into between SPPC and Defendants. Should
8 Defendants' interpretation of the contract control this matter, SPPC would likely not be entitled
9 to recovery. Further, as an issue of law, failure to resolve this issue prior to trial could result in a
10 substantial disruption of the trial should the issue be raised at that time. Finally, the court has
11 reviewed Defendants' renewed motion and concludes that the issues raised were not specifically
12 dealt with by the court in any previous order, but rather raise new provisions of the contract
13 which should be interpreted prior to trial.

14 Thus, the court concludes that good cause exists to modify the prior scheduling order to
15 allow Defendants to pursue the current motion. While the court dislikes returning to a summary
16 judgment motion at this late stage, it appears that all parties will benefit by having this issue
17 resolved prior to trial.

18 Accordingly, the current trial date shall be vacated pending resolution of the renewed
19 motion for summary judgment. Further, the court shall consider Defendants' filing of the current
20 motion to also constitute a motion for leave to file a renewed motion for summary judgment; and
21 the court will grant such a request. SPPC will be given fifteen (15) days to file a proper
22 opposition to Defendants' renewed motion for summary judgment and Defendants will have ten
23 (10) days after the opposition is filed in which to reply.

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1 It is therefore ORDERED that SPPC's pending motion (#79) is GRANTED in part and
2 DENIED in part;

3 The court will not strike Defendants' renewed motion for summary judgment, but will
4 provide SPPC with leave to file an opposition. SPPC shall file an opposition to Defendants'
5 renewed motion for summary judgment within fifteen (15) days of the filing of this order and
6 Defendants shall file a reply within ten (10) days of the filing of SPPC's opposition.

7 It is further ORDERED that the trial date previously set for this matter as November 30,
8 2006, is VACATED pending the resolution of Defendants' renewed motion for summary
9 judgment.

10 DATED this 7th day of November, 2006.



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LARRY R. HICKS
13 UNITED STATES DISTRICT JUDGE
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